

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4862-03
Bill No.: SB 1006
Subject: Construction and Building Codes; Counties; Environmental Protection; Health
Dept.; Health, Public; Lakes, Rivers and Waterways; Natural Resources Dept.;
Water Resources and Water Districts
Type: Original
Date: March 22, 2010

Bill Summary: Modifies and creates provisions pertaining to water quality.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	\$0	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Various Other State Funds	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	0	0	0
Various Other State Funds	0	0	0
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Natural Resources (DNR)** assume Section 341.230 of this proposal would require any county containing any portion of a body of water that in any way touches any portion of state park or national park property to adopt a plumbing code that would be applicable to both residential and commercial buildings. The department does not have any authority or responsibility under Chapter 341 RSMo.

Section 640.011 would require full transparency to the public. DNR is currently developing a system to post most lab results on the internet within 48 hours of when analysis is completed and sample results are finalized.

Section 640.085 of this proposal would move the Environmental Services Program (ESP) from DNR to DHSS. There would be substantial logistical issues to work through as a result of this provision including physical location, lease and utility, budget, funding sources, etc.

ESP is intertwined within DNR with numerous workplans and other documents that define roles, duties, and protocols including (but not limited to) 56 Standard Operating Procedures and 36 Quality Assurance Project Plans. These documents and responsibilities would need to be integrated into DHSS to ensure that DNR can continue to request appropriate field work and access the data necessary to make sound science based decisions.

ESP relies upon a complex mix of state and federal funding that is intertwined with the funding of the environmental programs. ESP currently utilizes 69 funding sources related to specific projects or activities. Utilizing isolated funding sources across departments would prove challenging. Options for streamlined funding sources may be needed to ensure efficiency.

Some ESP activities are referenced in other statutes that may conflict with this proposal. For example, Environmental Emergency Response (EER) duties are specific to DNR (260.500 to 260.552) as is cleanup of controlled substances (640.040).

Section 640.100 would modify the safe drinking water law to remove references to DNR related to sampling and analysis of drinking water and certification of other laboratories to provide testing. As written, this provision would require the Drinking Water Branch within DNR to work with and rely upon DHSS for all testing.

Removal of the ability to certify laboratories to provide this testing would result in increased workload for DHSS.

ASSUMPTION (continued)

Section 640.100 is further amended by removing "department of natural resources" as a provider of the laboratory services that would be funded by the laboratory services and program administration fee imposed in this section. This provision would further assign analysis of all drinking water required by section 192.320 and sections 640.100 to 640.140 solely to the DHSS laboratories.

Section 640.128 would require DNR to immediately notify the local public health authority and DHSS whenever DNR received results of water quality testing performed by a permit holder that indicated a potential risk to the public.

The existing Memorandum of Understanding between the department and DHSS would need to be substantially modified or completely re-written to address the laboratory testing and define responsibilities for assessment and reporting of data

The state's Quality Management Plan would need to be re-negotiated with EPA. The Quality Management Plan is the formal document that describes the management policies, objectives, principles, organizational authority, responsibilities, accountability and implementation plan for ensuring quality of its environmental data. The plan covers all intramural and extramural monitoring and measurement activities that generate and process environmental data for use by DNR. Environmental Protection Agency requires this plan before it would allow DHSS to approve quality assurance project plans for various types of sample collection and analysis.

The Air Quality Monitoring Section, the Field Services Unit, and the Water Quality Monitoring Section of ESP work almost exclusively for the DNR's environmental programs. Communication between ESP and the environmental programs is frequent, often requiring rapid changes in written annual monitoring agreements and sampling plans to meet shifting priorities. Currently these rapid changes are well accommodated. The efficiency of DNR to address environmental and monitoring needs associated with spills, other environmental emergencies or the normal shifting in priorities that can occur with sampling plans would have to move through two departments instead of within one division in DNR. Delays may occur that could reduce the value of the monitoring, and, in some cases, opportunities to sample at critical times may be lost.

The Environmental Emergency Response Section operates a 24/7 spill line, offers response capability from five regional locations, and serves as the focal point for homeland security and disaster coordination for the DNR. Disaster coordination and response encompasses both man made and natural disasters. If ESP is moved into DHSS, the DNR would need to rebuild disaster coordination and homeland security mechanisms.

ASSUMPTION (continued)

The Water Quality Monitoring Section of ESP are, by training and the type of work that they do, aquatic biologists that monitor streams and lakes primarily to assess the health of the aquatic life in those waters. Their work, particularly those members of WQMS that work primarily at sampling and identifying aquatic macroinvertebrate animals and collecting water chemistry samples is directly connected with the mission and authorities of DNR under state and federal clean water laws that require monitoring and protection of the state's waters for fish and other aquatic life.

The Safe Drinking Water Act requires microbiological and chemical testing to be conducted by a laboratory certified by the Environmental Protection Agency (EPA). DHSS currently conducts microbiological testing of drinking water for bacteria; DHSS is not certified to conduct radionuclide testing required under the Safe Drinking Water Act. ESP is certified by EPA to conduct chemical testing, including organic and inorganic chemistry and radionuclides, however the program assumes that re-certification would be required for ESP as DHSS. DHSS does not have staff with bench experience in testing drinking water samples and this lack of experience, equipment and expertise may result in monitoring noncompliance for Missouri public water systems

Missouri's four largest water systems (St. Louis, Kansas City, Missouri American and Springfield) each have their own certified laboratories and perform their own regulatory compliance monitoring, chemical and bacteriological, for the Safe Drinking Water Act. Section 644.200.1 would prohibit these systems from continuing to do so. The laboratory testing conducted by these water systems is not currently paid for by the state; requiring these systems to send their laboratory testing to the department of health would result in a fiscal impact to the state and these four water systems which must test their water frequently to constantly fine-tune their treatment process. That fiscal impact is unknown.

DNR currently contracts with the US Geological Survey for collection and analysis of samples at 68 fixed monitoring sites located throughout the state. These sites are located in representative waters and comprise a large portion of Missouri's Water Quality Ambient network. Data collected and analyzed from these sites for many years illustrate trends in Missouri's water quality and is used to develop and/or revise water quality standards for the state and is the basis for our EPA-delegated NPDES program. DNR also enters into contracts periodically with USGS for other water quality monitoring and testing. DHSS would need to develop the laboratory capability and expertise to analyze these samples and report results to DNR and USGS.

There are many private and public laboratories certified to conduct bacteriological and/or chemical testing and these are used by many drinking water system, rather than state labs, to meet

ASSUMPTION (continued)

their mandated monitoring requirements because the distance to state facilities is such that sample holding times often exceeded rendering the sample useless. Section 644.200.1 of this legislation ends this portion of private enterprise by requiring that all laboratory testing of water be conducted by a laboratory operated by the DHSS.

For purposes of this fiscal note, the department assumed authority changes would be effective August 28, 2010 with transition plan to be determined. It was also assumed there would be no budget changes (no fiscal impact to DNR) in FY2011. The department assumed that budget would be moved from DNR to DHSS in FY2012 with all physical and administrative function transfers finalized throughout the year. Therefore the department has shown DNR cost avoidance beginning in FY2012.

Fund 0101 General Revenue – Cost Avoidance – The amount of GR appropriation that is needed to fund the Environmental Services Program (EER Section, EER Staff in the Regional Offices, and a portion of the Chemical Analysis Section) is \$1,125,675. (22.71 FTE).

It is assumed that ESP's appropriation language from federal and other funds would be necessary and available to DHSS. Specific project work performed by ESP and funding arrangements with the host programs is not predictable and would require the ability to shift between federal and other funds. Alternatively, DHSS would need specific appropriations from dedicated fee funds or General Revenue.

Fund 0140 Federal Funds – Cost Avoidance was determined by utilizing the FY2011 Governor's Recommendations (Operating and Hazardous Substance and Emergency Response Core). (27.29 FTE) Cost avoidance was estimated at appropriated levels.

Other State Fee Funds – Cost avoidance was determined by utilizing the FY2011 Governor's Recommendations (Operating and Hazardous Substance and Emergency Response Core). (40.0 FTE) Cost avoidance was estimated at appropriated levels.

Fund 0425 DNR Revolving Services Fund (RSF) – DNR funding consists of a mixture of federal grants and dedicated fee funds. The RSF is utilized as a mechanism to account for costs specific to individual funding sources. This mechanism is used for EE within the Chemical Analysis Section. EE expenses are originally paid from the RSF and billed to the client program based upon a cost to run a given laboratory test. This funding mechanism is also utilized to manage vehicle replacement. The allocation of RSF appropriation to ESP was utilized to determine the impact to this fund.

ASSUMPTION (continued)

No assumptions have been included for lease and utility cost avoidance for DNR. ESP's primary facility is a state owned building on Main Street in Jefferson City. ESP also has 8 staff and equipment co-located in four of DNR's regional offices; 3 staff and equipment co-located at Route 66 State Park, and one staff co-located in the Truman Lake Satellite Office (DNR State Park owned building).

No assumptions have been made regarding changes to department administrative costs. It is assumed that division and department costs would likely be internally redistributed, therefore, no cost avoidance. However, since ESP administrative costs are included in the department's indirect costs, DHSS would need to find a different way to fund.

No assumptions have been made regarding the disposition of the current state owned building on West Main (current ESP facility).

Officials from the **Department of Health & Senior Services** assume Section 640.085 This section transfers the functions and duties of the Department of Natural Resources' Environmental Services Program (ESP) to DHSS. The department assumes that the 91 staff currently working in this program will be transferred to DHSS. This proposed transfer includes 24/7 environmental emergency response, laboratory activities, and environmental field sampling. Funding will be necessary for 91 personnel, operating expenses, laboratory equipment and maintenance, space rental, janitorial services, communications, data charges, software, vehicle fleet upkeep, building repairs, etc. Sustainable funding will be required for all activities. The total fiscal impact is unknown.

Section 640.011.1 requires any environmental data collected to be made available to the public in a timely fashion and easily accessible by any member of the public. The department currently relies on a paper-based system and the U.S. Postal service to deliver test results. To meet the requirements of this section would require a large investment in expanding the Laboratory Information Management System (LIMS) and electronic reporting capabilities. The Department of Natural Resources currently manages their laboratory data through LIMS. DHSS is unsure if the LIMS system that DNR uses is compatible with the DHSS system and capable of performing the requirements of the bill. If the department is unable to utilize DNR's LIMS, there would be extensive ITSD costs in order to develop/modify the current LIMS to be compatible with the requirements of the bill. The impact of this portion is (Unknown, >\$100,000).

Portions of the DNR laboratory and Environmental Services Program activities are funded by a variety of sources including fees for services, grant funds, and General Revenue. At this time, DHSS is unsure of the funding sources that will be transferred from DNR; therefore the

ASSUMPTION (continued)

department assumes an Unknown cost to both General Revenue and other funds, generically speaking.

Officials from **St. Louis County** assume no fiscal impact to their county.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE			
<u>Transfer Out</u> - Department of Natural Resources			
Salaries	\$0	\$1,125,675	\$1,125,675
Fringe Benefits	\$0	\$590,304	\$590,304
Equipment & Expense	<u>\$0</u>	<u>\$337,241</u>	<u>\$337,241</u>
Total	<u>\$0</u>	<u>\$2,053,220</u>	<u>\$2,053,220</u>
<u>Transfer In</u> - Department of Health & Senior Services			
Salaries	\$0	(Unknown > \$100,000)	(Unknown > \$100,000)
Fringe Benefits	\$0	(Unknown > \$100,000)	(Unknown > \$100,000)
Equipment & Expense	<u>\$0</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>
Total	<u>\$0</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - State Government

FY 2011
(10 Mo.)

FY 2012

FY 2013

OTHER STATE FEE FUNDS

Transfer Out - Department of Natural
Resources

Salaries	\$0	\$1,709,830	\$1,709,830
Fringe Benefits	\$0	\$896,635	\$896,635
Equipment & Expense	<u>\$0</u>	<u>\$469,858</u>	<u>\$469,858</u>

**ESTIMATED NET EFFECT ON
OTHER STATE FEE FUNDS**

<u>\$0</u>	<u>\$3,076,323</u>	<u>\$3,076,323</u>
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DNR REVOLVING SERVICE FUND

Transfer Out - Department of Natural
Resources

Equipment & Expense	<u>\$0</u>	<u>\$755,316</u>	<u>\$755,316</u>
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**ESTIMATED NET EFFECT ON DNR
REVOLVING SERVICE FUND**

<u>\$0</u>	<u>\$755,316</u>	<u>\$755,316</u>
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VARIOUS OTHER STATE FUNDS

Transfer In - Department of Health &
Senior Services

Salaries	\$0	(Unknown > \$100,000)	(Unknown > \$100,000)
Fringe Benefits	\$0	(Unknown > \$100,000)	(Unknown > \$100,000)
Equipment & Expense	<u>\$0</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>

**ESTIMATED NET EFFECT ON
OTHER STATE FUNDS**

<u>\$0</u>	<u>(Unknown > \$100,000)</u>	<u>(Unknown > \$100,000)</u>
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FISCAL IMPACT - Local Government

FY 2011
(10 Mo.)

FY 2012

FY 2013

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Yes. The impact is unknown. There are private labs that both the DHSS and the DNR certify to perform microbiology (DHSS certified) and chemical (DNR certified) testing. The bill would require these tests to be performed by DHSS. This bill would alter 640.100.3 which establishes the ability for private labs to be certified by DNR. Also, with the loss of the laboratory, the DNR would no longer have staff qualified to certify private labs in accordance with 640.100.3.

Yes. Section 640.100.3 of the proposed legislation states, "The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of health and senior services laboratories." This will impact 19 private laboratories which could no longer perform public water testing.

FISCAL DESCRIPTION

The act modifies provisions relating to water quality.

SECTION 341.230 - Plumbing Code

By August 28, 2013, counties that contain any portion of a water body that runs through or borders a state park or national park must adopt a plumbing code. The code must be at least as stringent as a nationally recognized plumbing code. Agricultural buildings are exempt from having to comply with the plumbing code.

SECTION 640.011 - Transparency Policy

The Department of Natural Resources must carry out its duties with full transparency to the public and the public must be able to access any of the department's data in a timely fashion. The department must take a broad interpretation of the Missouri Sunshine Law and must respond accordingly to any request for information, regardless of the format in which the request is made.

DESCRIPTION (continued)

SECTION 640.085 - Environmental Services Program

The Environmental Services Program currently under the Department of Natural Resources is transferred to the Department of Health and Senior Services, with the transfer to be complete as of June 30, 2012.

SECTION 640.100 - Public Drinking Water Laboratory Tests

Under current law, public water suppliers may request the Department of Natural Resources or the Department of Health and Senior Services to run lab tests of their water samples. The act removes the Department of Natural Resources from this provision. Additionally, current law requires analysis of drinking water samples to be conducted by the Department of Health and Senior Services laboratories, the Department of Natural Resources' laboratories, or other labs certified by the Department of Natural Resources. The act removes the Department of Natural Resources' laboratories and other labs certified by the department from the provision.

SECTION 640.128 - Notification of Public Health Risk

The Department of Natural Resources must immediately notify the local public health authority and the Department of Health and Senior Services if it receives water quality test results voluntarily submitted by a permitted entity that indicate a risk to public health.

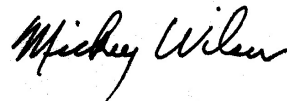
SECTION 701.033 - Private Septic Systems

The act allows the Department of Health and Senior Services to provide technical assistance, guidance, and oversight to local authorities that administer and enforce individual on-site sewage disposal system standards. The Department may provide such assistance at the request of the local government or in any case where the Department determines that its intervention is necessary to prevent a violation of state law.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health & Senior Services
Department of Natural Resources
Attorney General's Office
St. Louis County

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
March 22, 2010